

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

July 22, 2011

No. 11-10019
Summary Calendar

Lyle W. Cayce
Clerk

VINCENT JOHN BAZEMORE, JR.,

Plaintiff-Appellant

v.

ROBERT E. CASEY, JR., FBI - Dallas; TODD M. BLESSING, FBI - Dallas;
KATRINA BYRD SMITH, FBI - Dallas; GAIL ANDERSON, U.S. Marshal
Service - Dallas; GENNY CLAUDIO, U.S. Marshal Service - Dallas,

Defendants-Appellees

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:10-CV-1202

Before JOLLY, SMITH and GRAVES, Circuit Judges.

PER CURIAM:*

Vincent John Bazemore, Jr., federal prisoner # 37160-177, seeks leave to proceed in forma pauperis (IFP) in his appeal of the district court's dismissal of his *Bivens*¹ action as duplicative, presumably pursuant either to 28 U.S.C. § 1915(e)(2) or to 28 U.S.C. § 1915A(b)(1). Bazemore's motion is construed as a

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

¹ *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

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challenge to the district court's certification that his appeal was not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

Bazemore argues that his claims in the instant case are not duplicative of those in prior case no. 3:10-CV-720. However, Bazemore has not shown that the district court abused its discretion in dismissing his case as malicious because both the instant case and Bazemore's prior case involve "the same series of events" and contain allegations of "many of the same facts." *Bailey v. Johnson*, 846 F.2d 1019, 1021 (5th Cir. 1988); *see Pittman v. Moore*, 980 F.2d 994, 994-95 (5th Cir. 1993). Although the specific claims in each case differ, Bazemore contends in both cases that the Government failed to follow the requirements of § 983 when it seized certain property. Furthermore, both cases challenge the execution of seizure warrants supported by the same affidavit.

Bazemore's appeal is without arguable merit and is thus frivolous. *See Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, Bazemore's request for leave to proceed IFP on appeal is denied and his appeal is dismissed. *See Baugh*, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2. After Bazemore filed this IFP motion, we barred him from proceeding IFP in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. *See* § 1915(g); *Bazemore v. Abbott*, appeal no. 10-11032, 2011 WL 1519119 (5th Cir. Apr. 21, 2011) (unpublished). Bazemore remains subject to the § 1915(g) bar.

IFP MOTION DENIED; APPEAL DISMISSED.